

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

LEO MCKAYE,

Plaintiff,

v.

Case No. 2:06-cv-203
HON. GORDON J. QUIST

ROBERT NAPLES,

Defendant.

REPORT AND RECOMMENDATION

Plaintiff Leo McKaye filed this prisoner civil rights action pursuant to 42 U.S.C. § 1983 against defendant Robert Naples. On October 20, 2006, defendant filed a Suggestion of Death Upon the Record, establishing that plaintiff died on October 16, 2006. No motion for substitution has been filed by any party within the time required by law. Accordingly, it is recommended that this case be dismissed, pursuant to Federal Rule of Civil Procedure 25(a)(1).

NOTICE TO PARTIES: Objections to this Report and Recommendation must be served on opposing parties and filed with the Clerk of the Court within ten (10) days of receipt of this Report and Recommendation. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); W.D. Mich. LCivR 72.3(b). Failure to file timely objections constitutes a waiver of any further right to appeal. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). *See also Thomas v. Arn*, 474 U.S. 140 (1985).

/s/ Timothy P. Greeley

TIMOTHY P. GREELEY
UNITED STATES MAGISTRATE JUDGE

Dated: January 29, 2007